

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3504 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

NARESH MOHANLAL PARIKH

Versus

UCO BANK

Appearance:

1. Special Civil Application No. 3504 of 2002
MR MB PARIKH for Petitioner No. 1
MR DARSHAN M PARIKH for Respondent No. 1-2

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 21/03/2003

ORAL JUDGEMENT

1. Heard the learned advocates for the parties and
considering the facts and circumstances of the case,

Rule. Mr. Darshan M. Parikh, learned advocate appearing for the respondent-Bank waives service of rule.

2. By consent of the parties, the matter is taken up for final hearing today.

3. In this petition, the petitioner has basically prayed for the relief to quash and set aside the order at Annexure-B to the petition, whereby the following penalty is imposed on the petitioner :-

"Be removed from service with superannuation benefits including leave encashments as would be due otherwise at that stage and without disqualifying from future employment. It is further directed that no benefit of increment is to be allowed to Mr. N.M. Parikh during the period of suspension and he will also not be entitled to full wages, allowances, etc. for the period of suspension.

The above punishment shall come into effect with immediate effect."

4. The petitioner has in the alternative prayed for a direction to the bank to grant him all the superannuation benefits which are permitted to him in pursuance of the aforesaid order of penalty. Mr. H.M. Parikh, learned advocate appearing for the petitioner conceded on instruction of the petitioner that he does not press for the challenge to the imposition of the penalty but he presses for the alternative relief and he has submitted that this Court should direct the bank to pay the superannuation benefits to him as contemplated in the order of penalty. He has relied upon order passed by this Court in Special Civil Application No. 1799 of 2002, which is also decided to day.

5. Heard Mr. D.M. Parikh, learned advocate appearing for the respondent bank. He has taken me through the Employees Provident Fund Rules of the bank and especially Rule 17, which reads as under :-

"Any contributor who is dismissed for insubordination, misconduct, fraud or any other cause of a like nature or retires from the Bank in consequence thereof shall only be entitled to repayment of the amount of his own contributions with the interest accrued thereon at the rate and in manner aforesaid. The Trustees shall be the sole judges of the sufficiency of the cause of the dismissal or retirement of any contributor in

any of the foregoing cases."

6. In my opinion the aforesaid rule is not applicable in the present case. The penalty imposed upon the petitioner specifically provides that the petitioner is removed from service with immediate effect, however, with superannuation benefits as contemplated in the said order which is quoted hereinabove. The words of the penalty imposed on the petitioner clearly show that the petitioner is ordered to be removed from service from the date of that order and he was required to be treated to have been superannuated from that date for the purposes of granting him the benefits which would be available to an employee who superannuated on reaching the age of retirement. I have taken the similar view in Special Civil Application No. 1799 of 2002 which I have decided today and considering the reasons given therein, which are also applicable here, the respondent bank is required to be directed to grant to the petitioner all the superannuation benefits which are contemplated in the said order of penalty as if the petitioner had been retired from the date on which he was removed from service. The benefits, if any, shall be calculated and granted to the petitioner within 8 weeks from the date of receipt of the writ of this order. Rule is made absolute in the aforesaid terms. No costs.

[AKSHAY H. MEHTA, J.]

* Pansala.